Advisory Action *Before the Filing of an Appeal Brief*	Application No.	Applicant(s)
	10/813,201	ZISSERMAN ET AL.
	Examiner	Art Unit	
	Sathyanarayan Pannala	2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>13 August 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>19-39</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheets.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: <u>See Continuation Sheets (Interview Summary attached).</u>

             /Sathyanarayan Pannala/
             Primary Examiner, Art Unit 2164

Continuation of 11. does NOT place the application in condition for allowance because: Applicant amendment did not overcome rejections. Because, Applicant did not amend all other independent claims similar to claim 1. Regard Applicant argument stated as "Contrary to the rejection, Applicants respectfully submit that claims 19, 28 and 38 are in full compliance with the requirements of 35 U.S.C. § 112, second paragraph, as there are no essential steps omitted in the recited invention prior to the claimed identification step."

In response to it, merely identifying a dataset will not form a "training dataset" as claimed. Applicant did not create a "training database" or a "training dataset". There is no evidence that an user can identify predetermined feature types within each image. Therefore, this limitation needs another step before it. There is no single step, which defines properly the creation of a training dataset in the specification. Therefore, this rejection is maintained.

Further, Applicant argued as "Claim 21 was rejected 35 U.S.C. § 112, second paragraph, as allegedly being indefinite, asserting that pronouns are not permitted in a claim." In response to this argument as the amendment is not entered and the rejection is maintained. Applicant argument regarding claims 19-39 rejection under 35 U.S.C. 101 stated as "Applicants respectfully submit that claims 19-39 recite subject matter in full compliance with 35 U.S.C. § 101." In response to Applicant argument Examiner respectfully disagrees. The steps of claims 19, 28 and 38 are abstract, considered as incomplete and not supported by written description. Therefore, the rejection of claims 19-39 under 35 U.S.C. 101 is maintained.

Applicant's arguments and response regarding prior art rejection of claims 19-39 is as follows:

Applicant argument stated regarding the claim 19 as "claimed method. First, as described above, Mojsilovic is a completely different method than the one claimed. Second, there fails to be any reasonably apparent reason why one of ordinary skill in the art would combine Mojsilovic with Jain or Essafi to arrive at the present method. Third, even if one were to combine the two references, the combination would fail to teach all claim elements, namely the generation of a model from identifying characteristics within a plurality of images in which the model comprises common features and parameters common among all images in the training dataset, as required by the invention."

In response to Applicant's argument regarding prior art by Mojsilovic, he do teach categorization of images based on features in the image. For example, Mojsilovic teaches the limitation "identifying..." as, after the final categories had been identified, another experiment was performed to determine whether these algorithmically-derived categories were semantically distinct, in this experiment, observers were requested to give names to final categories identified. They were also asked to provide descriptors for each of the categories and main properties of the category. The experiment is used to test the robustness of the categories and test whether people see them in consistent manner. The experiment helped in determining categories are semantically relevant and tested that the written descriptions are valuable in determining pictorial features that best capture the semantics of each category. Further, Mojjsiovic teaches the limitation "classifying..." as, in the approach of Chang et al. the user is asked to identify a possible range of color, texture, shape or motion parameters to express the user's query, and the query is then refined using the relevance feedback technique (col. 2, lines 53-57). Further teaches as, observers were requested to give names to final semantically distinct categories identified and they were also asked to provide descriptors for each of the categories and main properties of the category (col. 13, lines 57-63). Therefore, Mojsilovic reference is considered as the primary reference.

In response to the Applicant's second argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mojsilovic reference teaching is listed in the above paragraphs. Regrading the other two references teaches the part which are not taught by Mojsilovic. The limitation "To generate the model comprising said the model parameters." Jain teaches this limitation as "The new image(s) are provided as inputs to the VIR Engine 120. Note that references to the database 132 may be to a portion or a partition of the entire database, such as, for example visual objects associated with a particular domain. Therefore, visual objects for multiple domains or subsets of a domain could be stored in separate databases or they may be stored in one database (Fig. 2, col. 9, lines 30-37). Finally, Essafu teaches the claimed "estimating model parameters are modeled by probability functions" as "a method increases the probability of finding similarities between two images in have been omitted on one or the other modeling." In response to the final argument, Essafi teaches modeling images.

Therefore the final Office Action mailed on 5/13/2008 is maintained.

Continuation of 13. Other: Applcant had a T. interview with Examiner and SPE to enter the Amendment after Final. see Interview Summary for details.